

By Representative Farkas

1 A bill to be entitled
 2 An act relating to health care; transferring to
 3 the Department of Health the powers, duties,
 4 functions, and assets that relate to the
 5 consumer complaint services, investigations,
 6 and prosecutorial services performed by the
 7 Agency for Health Care Administration under
 8 contract with the department; amending s.
 9 20.43, F.S.; deleting provisions authorizing
 10 the department to enter into such contracts
 11 with the agency, to conform; amending s.
 12 456.073, F.S.; revising procedures and
 13 timeframes for formal hearings of health care
 14 practitioner disciplinary cases; providing an
 15 alternative hearings procedure under specified
 16 circumstances; amending s. 456.076, F.S.;
 17 requiring impaired practitioners to pay a
 18 portion of the cost of the impaired
 19 practitioner programs and consultants and the
 20 full cost of the required treatment program or
 21 plan; repealing s. 456.047, F.S., relating to
 22 standardized credentialing for health care
 23 practitioners; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. (1) Effective January 1, 2002, all powers,
 28 duties, functions, records, personnel, property, and
 29 unexpended balances of appropriations, allocations, and other
 30 funds of the Agency for Health Care Administration that relate
 31 to consumer complaint services, investigations, and

1 prosecutorial services currently provided by the Agency for
2 Health Care Administration under a contract with the
3 Department of Health are transferred to the Department of
4 Health by a type two transfer, as defined in s. 20.06(2),
5 Florida Statutes.

6 (2)(a) All records, personnel, and funds of the
7 consumer complaint and investigative services units of the
8 agency are transferred and assigned to the Division of Medical
9 Quality Assurance of the Department of Health.

10 (b) All records, personnel, and funds of the
11 prosecutorial unit of the agency are transferred and assigned
12 to the Office of the General Counsel of the Department of
13 Health.

14 Section 2. Paragraph (g) of subsection (3) of section
15 20.43, Florida Statutes, is amended to read:

16 20.43 Department of Health.--There is created a
17 Department of Health.

18 (3) The following divisions of the Department of
19 Health are established:

20 (g) Division of Medical Quality Assurance, which is
21 responsible for the following boards and professions
22 established within the division:

23 1. The Board of Acupuncture, created under chapter
24 457.

25 2. The Board of Medicine, created under chapter 458.

26 3. The Board of Osteopathic Medicine, created under
27 chapter 459.

28 4. The Board of Chiropractic Medicine, created under
29 chapter 460.

30 5. The Board of Podiatric Medicine, created under
31 chapter 461.

- 1 6. Naturopathy, as provided under chapter 462.
- 2 7. The Board of Optometry, created under chapter 463.
- 3 8. The Board of Nursing, created under part I of
- 4 chapter 464.
- 5 9. Nursing assistants, as provided under part II of
- 6 chapter 464.
- 7 10. The Board of Pharmacy, created under chapter 465.
- 8 11. The Board of Dentistry, created under chapter 466.
- 9 12. Midwifery, as provided under chapter 467.
- 10 13. The Board of Speech-Language Pathology and
- 11 Audiology, created under part I of chapter 468.
- 12 14. The Board of Nursing Home Administrators, created
- 13 under part II of chapter 468.
- 14 15. The Board of Occupational Therapy, created under
- 15 part III of chapter 468.
- 16 16. Respiratory therapy, as provided under part V of
- 17 chapter 468.
- 18 17. Dietetics and nutrition practice, as provided
- 19 under part X of chapter 468.
- 20 18. The Board of Athletic Training, created under part
- 21 XIII of chapter 468.
- 22 19. The Board of Orthotists and Prosthetists, created
- 23 under part XIV of chapter 468.
- 24 20. Electrolysis, as provided under chapter 478.
- 25 21. The Board of Massage Therapy, created under
- 26 chapter 480.
- 27 22. The Board of Clinical Laboratory Personnel,
- 28 created under part III of chapter 483.
- 29 23. Medical physicists, as provided under part IV of
- 30 chapter 483.
- 31

1 24. The Board of Opticianry, created under part I of
2 chapter 484.

3 25. The Board of Hearing Aid Specialists, created
4 under part II of chapter 484.

5 26. The Board of Physical Therapy Practice, created
6 under chapter 486.

7 27. The Board of Psychology, created under chapter
8 490.

9 28. School psychologists, as provided under chapter
10 490.

11 29. The Board of Clinical Social Work, Marriage and
12 Family Therapy, and Mental Health Counseling, created under
13 chapter 491.

14

15 ~~The department may contract with the Agency for Health Care~~
16 ~~Administration who shall provide consumer complaint,~~
17 ~~investigative, and prosecutorial services required by the~~
18 ~~Division of Medical Quality Assurance, councils, or boards, as~~
19 ~~appropriate.~~

20 Section 3. Subsection (5) of section 456.073, Florida
21 Statutes, is amended to read:

22 456.073 Disciplinary proceedings.--Disciplinary
23 proceedings for each board shall be within the jurisdiction of
24 the department.

25 (5)(a) A formal hearing before an administrative law
26 judge from the Division of Administrative Hearings shall be
27 held pursuant to chapter 120 if there are any disputed issues
28 of material fact raised within 45 days after service of the
29 administrative complaint. The administrative law judge shall
30 issue a recommended order pursuant to chapter 120. However, if
31 the department determines that the material fact in dispute is

1 whether the licensee practiced below the standard of care;
2 improperly delegated a task; inappropriately or improperly
3 prescribed, dispensed, or administered; or is unable to
4 practice with reasonable skill and safety, a hearing before a
5 hearing officer appointed by the Secretary of Health shall be
6 held instead.~~If any party raises an issue of disputed fact~~
7 ~~during an informal hearing, the hearing shall be terminated~~
8 ~~and a formal hearing pursuant to chapter 120 shall be held.~~

9 (b) Notwithstanding s. 120.569(2), the department
10 shall notify the Division of Administrative Hearings within 45
11 days after receipt of a petition or request for hearing that
12 the department has determined requires a formal hearing before
13 an administrative law judge.

14 Section 4. Subsection (7) is added to section 456.076,
15 Florida Statutes, to read:

16 456.076 Treatment programs for impaired
17 practitioners.--

18 (7) Each licensee participating in an impaired
19 practitioner program pursuant to this section shall pay 40
20 percent of the costs of the consultant and impaired
21 practitioner program incurred as a result of that licensee.
22 The remaining 60 percent of the costs shall be paid out of the
23 Medical Quality Assurance Trust Fund or other federal, state,
24 or private program funds. Each licensee shall pay the full
25 cost of the approved treatment program or other treatment plan
26 required by the impaired practitioner program, unless private
27 funds are available to assist with such payment.

28 Section 5. Section 456.047, Florida Statutes, is
29 repealed.

30 Section 6. This act shall take effect January 1, 2002.
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

HOUSE SUMMARY

Transfers to the Department of Health all powers, duties, functions, and assets relating to consumer complaints, investigations, and prosecutorial services currently provided for the department through contract with the Agency for Health Care Administration. Revises procedures and timeframes for formal hearings by an administrative law judge of disciplinary cases involving health care practitioners. Provides for hearings by hearing officers appointed by the Secretary of Health for specified types of cases. Requires impaired practitioners to pay 40 percent of the costs of the impaired practitioner programs and consultants and the full cost of the required treatment program or plan. Repeals provisions relating to standardized credentialing for health care practitioners.